

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FAROUK SYSTEMS, INC.

Plaintiff,

v.

ZOONDA SUPPLY a/k/a ZOONDA a/k/a
ZOONDA DISTRIBUTOR SUPPLY;
MOR ENTERPRISES; MAOR
MELLOUL, an individual; MORDECHAI
ELAZAR, an individual; JOHN AND
JANE DOES 1-15; and XYZ CORPS. 1-
15,

Defendants.

§ CIVIL ACTION NO. 4:08-mc-276

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**FILED UNDER SEAL PURSUANT
TO 15 U.S.C. § 1116**

**DECLARATION OF RADHIKA SHIVGOBIN IN SUPPORT OF PLAINTIFF'S
EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER,
SEIZURE ORDER, ORDER RESTRAINING TRANSFER OF ASSETS, ORDER
TO SHOW CAUSE FOR PRELIMINARY INJUNCTION AND ORDER FOR
EXPEDITED DISCOVERY**

Radhika Shivgobin, of full age, under penalty of perjury, declares and says:

1. I am a private investigator licensed by the State of New York and employed by Corporate Loss Prevention Associates ("CLPA") of Bellmore, NY. I am the Director of Investigations at CLPA. I have been employed by CLPA since February 2004. I have participated in and/or conducted dozens of trademark investigations involving counterfeit and infringing goods, including those who sell counterfeit products via the Internet. I am familiar with investigations regarding counterfeit hair straighteners and other hair care products.

2. I submit this declaration in support of Plaintiff's *ex parte* application for a Temporary Restraining Order, Seizure Order, Order Restraining the Transfer of Assets, Order Sealing the File, Order for Expedited Discovery, and Order to Show Cause for a Preliminary Injunction against ZOONDA SUPPLY a/k/a ZOONDA a/k/a ZOONDA DISTRIBUTOR SUPPLY, MOR ENTERPRISES, MAOR MELLOUL, an individual, MORDECHAI ELAZAR, an individual, JOHN AND JANE DOES 1-15, and XYZ CORPS. 1-15 (collectively "Defendants").

3. In the course of conducting this investigation on behalf of Plaintiff Farouk Systems, Inc. ("FSI" or "Plaintiff"), I have become familiar with Defendants' business operations to distribute, offer to sell and sell large quantities of CHI® hair straighteners, which have been identified by Plaintiff as being counterfeit.

4. The following are actions undertaken by me or in conjunction with me by other CLPA investigators. If called upon as a witness, I could testify to the following from personal knowledge and/or a review of CLPA's files.

5. On or about April 16, 2008, at the request of Plaintiff, CLPA launched an investigation into Defendants' operations after a third party target identified Zoonda as the source of counterfeit CHI® hair straighteners it was selling. This third party target provided Plaintiff's representative with information that it had purchased the counterfeit CHI® hair straighteners on iOffer from the seller "Zoonda" and had been given the following information about the seller at the time of purchase:

zoondaioffer@gmail.com
Brenda Rogers
7925 fm 1960
Houston, TX 77070

6. CLPA conducted various searches of Zoonda and found that an entity by that name was selling CHI® branded hair straighteners on <<http://www.ioffer.com>> (“iOffer”), as well as <<http://www.amazon.com>> (“Amazon”), and <www.ebay.auction.co.kr> (“Korean eBay”). Defendants’ offers on iOffer include claims that Zoonda “only ha[s] authentic item[s]” and that the product is “100% Authentic”. True and correct copies of print-outs from iOffer, Amazon and Korean eBay identifying Zoonda are annexed hereto as Exhibits A and C. CLPA also found dozens of other online sites offering CHI® branded hair straighteners for sale by Zoonda, including but not limited to the following websites:

- <http://www.chi-hair-products.com>;
- <http://www.fashion.ie>;
- <http://mall.johnstonefitness.com>;
- <http://www.friendsxcetra.com>;
- <http://kcholim.org>;
- <http://www.dietinghq.com>;
- <http://www.dvdwize.com>;
- <http://7thspace.com>;
- <http://www.hk94.com>; and
- <http://mokoseek.com/>

7. True and correct copies of print-outs from these websites offering CHI® branded hair straighteners for sale by Zoonda are collectively annexed hereto as Exhibit B.

8. On April 16, 2008, CLPA determined that Zoonda was referenced on Amazon as Zoonda Distributor Supply and listed its toll free number as 1-866-561-4667. On April 16, 2008, CLPA also found listings on iOffer for bulk sales of counterfeit straighteners bearing the CHI® Mark, with the option to purchase up to twenty (20) straighteners in one transaction for approximately \$1100. A true and correct copy of a listing on iOffer for bulk sales is annexed hereto as Exhibit C. On April 18, 2008, CLPA

visited the Korean eBay site and conducted a search for CHI® hair straighteners. The results showed Zoonda, with a location in Spring, Texas.

9. On April 16, 2008, a CLPA investigator called 1-866-561-4667 and spoke to a male who verified that the number belongs to Zoonda but would not provide information about Zoonda.

10. On April 16, 2008, a CLPA investigator contacted Zoonda via email through Amazon and requested information about purchasing fifty (50) CHI® Original 1” hair straighteners. The CLPA investigator also inquired as to whether Zoonda had a physical location where the investigator could look at Zoonda’s products in person. A true and correct copy of this email communication is annexed hereto as Exhibit D.

11. On April 17, 2008, the CLPA investigator received an email from MOR ENTERPRISES with the email address morbeautysupply@gmail.com in response to the email sent to Zoonda identified in Paragraph 10. The email states that Zoonda has a “full inventory of Chi Farouk hair straighteners, in 5 different models ...” and it has a “combined shipping discount for large quantity orders, and will include a free gift....”. The email requested that CLPA contact Zoonda at 1-866-561-4667 and was signed “Zoonda Supply”. The email did not respond to CLPA’s request to view Zoonda’s products in person. See Exhibit C.

12. On or about April 17, 2008, CLPA investigated the toll free number 1-866-561-4667 and determined that it is registered to MOR ENTERPRISES, LLC (“MOR ENTERPRISES”), located at the following address:

10801 Hammerly Boulevard, Suite 206
Houston, Texas 77043

When called, the toll free number rings to 713-935-0300. CLPA ran a database search for 713-935-0300 and determined that is listed to MOR Enterprises.

13. On April 17, 2008, CLPA researched MOR ENTERPRISES with the State of Texas and spoke to a state representative via telephone who provided information from MOR Enterprise's Certificate of Incorporation. MOR ENTERPRISES is a limited liability company and its Certificate of Incorporation was filed on February 16, 2007. The Certificate of Incorporation identifies the managing members as Mordechai Elazar and Maor Melloul. The Certificate of Incorporation provides the following two addresses for the managing members:

6106 Breezy Hollow Lane
Katy, Texas 77450

23611 Tree House Lane
Spring, Texas 77373

The Certificate of Incorporation identifies the registered agent as the Corporation Services Company located at the following address:

701 Brazos Street, Suite 1050
Austin, Texas 78701

14. On April 24, 2008, CLPA ran a National Comprehensive Report on Maor Melloul. This report included a Vehicle Identification Number of 2G1FP22SXR2148340, which came back registered to Maor Melloul, a 25 year old male, with the license plate number S48HGD for a 1994 Chevrolet, registered to the following address:

23611 Tree House Lane
Spring, Texas 77373

This address is one of the same business addresses listed on the MOR ENTERPRISES Certificate of Incorporation (*see* Paragraph 13). A true and correct copy of the National Comprehensive Report is annexed hereto as Exhibit E.

15. CLPA ran additional database searches on Maor Melloul, including a Dun & Bradstreet report which identified Maor Melloul as the principal for Garden of Jewels, a jewelry/precious stones business started in 2005, located at the following address:

7925 FM 1960 Road W, Suite 5528
Houston, Texas 77070

This is the same address provided by the third party target as the address for Zoonda (*see* Paragraph 5). The report showed the Garden of Jewels telephone number as 281-894-9388, which is a non-working number. CLPA ran additional database searches for Garden of Jewels and did not find any other active listings for the entity. A true and correct copy of the Dun & Bradstreet report is annexed hereto as Exhibit F.

16. On April 25, 2008, a CLPA investigator ordered two (2) CHI® Original 1” hair straighteners, model number GF1001 from Zoonda Distributor Supply on Amazon. The hair straighteners cost \$67.50 each and, after shipping costs, came to a total of \$152.49. CLPA made the online purchase using a Chase debit card. A true and correct copy of the Amazon receipt for this purchase is annexed hereto as Exhibit G.

17. On April 28, 2008, CLPA received a package via U.S. Postal Service Priority Mail bearing the following return address:

ZOONDA SUPPLY
10801 Hammerly Blvd., Suite 206
Houston, Texas 77043-1924

This is the same address identified Paragraph 12, *supra*, associated with MOR ENTERPRISES. CLPA opened the package and found two CHI® Original 1” hair

straightener boxes inside it. Each box contained a CHI® hair iron and a user manual. The hair straighteners each bore the CHI® mark on several places on the iron itself, the owner's manual, the box and other packaging materials. True and correct copies of photographs of the package and its contents are collectively annexed hereto as Exhibit H.

18. On May 5, 2008, a CLPA investigator went to the residential address previously identified for Maor Melloul at 26311 Tree House Lane, Spring, Texas (*see* Paragraphs 13, 14). The property includes a residential house with a garage and it had a red Chevrolet Camaro parked in front bearing a license plate with the number S48HGD. This is the same license plate number CLPA previously identified with Maor Melloul as the registrant and owner (*see* Paragraph 14). The CLPA investigator observed a young male in his mid-twenties getting out of the red Camaro. The CLPA investigator photographed the premises, true and correct copies of which are annexed hereto as Exhibit I.

19. On May 8, 2008, a CLPA investigator went to the business address at 7925 FM 1960 Road W., Houston, Texas, which was previously identified in connection with Garden of Jewels (*see* Paragraph 15) and by the third party target as the address for Zoonda (*see* Paragraph 5). The investigator found that this location is a shopping mall and there is no store or business operating at the facility by the name Garden of Jewels, Zoonda, Zoonda Distributor Supply, or MOR ENTERPRISES and found no listings or references to Brenda Rogers.

20. On May 13, 2008, a CLPA investigator went to the address previously identified for MOR ENTERPRISES and Zoonda Supply at 10801 Hammerly Blvd., Suite #206, Houston, TX 77043-1924 (*see* Paragraphs 12, 17). The investigator identified the

same red Camaro with the license plate number S48HGD that he previously observed at the Tree House Lane residential address (*see* Paragraph 18) parked in front of Suite #206 at the Hammerly Blvd. address and recognized the same male he saw at the Tree House Lane address (*see* Paragraph 18) going inside Suite #206. He visited the business offices and did not find a listing for Zoonda or Suite #206. The investigator went behind Suite #206 and found a trash area with five empty, discarded boxes addressed to or from Zoonda Supply, as follows:

1. From Zoonda Supply, shipped to:
Jim Rogers
10801 Hammerly Blvd., Suite #230
Houston, Texas 77043-1924
2. Box from Alison C. Hopper at 704 E. Hill, Binghampton, NY 13901, addressed to Zoonda Supply.
3. Two boxes from U.S. Postal Service P.O. Box 95001, Indianapolis, IN addressed to (1) Zoonda Supply at 10801 Hammerly Blvd., Suite 206 and (2) James David at 401 Franklin St., Room 500, Houston, TX 77201-9901.

The investigator also retrieved a receipt from an Amazon order from Zoonda to Tom Davis, with the name Tom Davis crossed out and changed to AJ Patel at 2952 U.S. Highway 17 Rm 210, Richmond Hill, GA 31324-3300. True and correct copies of photographs of the discarded boxes are annexed hereto Exhibit J.

21. On May 13, 2008, while investigating the Hammerly Blvd. address, the CLPA investigator observed a U.S. Postal Service mail person picking up packages from Suite #206 that matched the shape and size of the package received by CLPA containing the hair straighteners bearing Plaintiff's Marks (*see* Paragraph 17 and Exhibit H annexed hereto).

22. On May 13, 2008, CLPA investigated Suite #230 at the Hammerly Blvd. address, which is where a box identified in Paragraph 20, *supra*, was shipped to Jim Rogers by Zoonda Supply, and found the door marked OSA Financial Services, Inc. (“OSA Financial”). The investigator also observed a white GMC Yukon with the license plate OSAFIN parked in front of Suite #230. CLPA ran a search for the license plate number OSAFIN and found that it is registered to OSA Financial. True and correct copies of the database results for license plate number OSAFIN are annexed hereto as Exhibit K.

23. On May 13, 2008, CLPA ran a Business Comprehensive Report on OSA Financial and the report identified James D. Rogers and Melissa L. Rogers as the principals of the business. A true and correct copy of this report is annexed hereto as Exhibit L. CLPA has been unable to find any additional information about Brenda Rogers, identified by the third party target (*see* Paragraph 5) and believes Brenda Rogers may be a fake name.

24. On May 29, 2008, CLPA ran a National Comprehensive Report on Mordechai Elazar. The report listed Mordechai Elazar as the principal of an entity known as MBM Cleaning, Inc. and showed the following address for Mordechai Elazar and MBM Cleaning, Inc.:

2500 Old Farm Road
Houston, Texas 77063

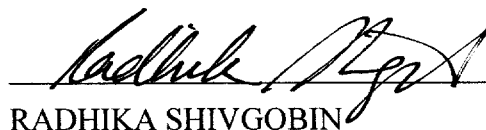
A true and correct copy of the National Comprehensive Report is annexed hereto as Exhibit M.

25. CLPA ran a Dun & Bradstreet report for MBM Cleaning Inc. which listed it as an Arizona corporation with the registering agent listed as Janae Ben Shabat and the

President as Mordechai Ben Shabat. A true and correct copy of the Dun & Bradstreet report is annexed hereto as Exhibit N.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 6th day of June, 2008, at Bellmore, New York.


RADHIKA SHIVGOBIN